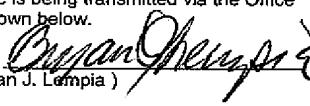


I hereby certify that this correspondence is being transmitted via the Office  
Electronic Filing System on the date shown below.

Dated: December 3, 2007    Signature:   
(Bryan J. Lempia)

Atty. Docket No.: 10040-04 PEL-01A  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:  
Paul Nizzere et al.

Application No.: 10/590,815

Confirmation No.: 1157

Filed: August 25, 2006

Art Unit: Unknown

For: Scale

Examiner: To Be Determined

**DECLARATION OF KAREN KAPLAN PURSUANT TO 37 C.F.R. § 1.47**

Attn: Box PCT  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

I, Karen Kaplan, hereby states as follows:

1. I am the patent paralegal for Rubbermaid Foodservice Products (RFP) division of Rubbermaid, Inc., which is a division of Newell Rubbermaid, Inc. I have worked for RFP for over three and one-half years. It is my responsibility to obtain signatures on documentation pertaining to patent applications filed with the U.S. Patent & Trademark Office and assigned or to be assigned from the inventors to Rubbermaid, Inc.

2. I have obtained signatures for five (5) of the seven (7) inventors on the above-identified U.S. application Serial No. 10/590,815 (the application) on a Declaration and Power of Attorney document (the Declaration) identifying the application. I have been unable to locate two (2) of the seven (7) inventors in this application, Matthew Lawler and Theron Kotze.

3. As is my normal course of business, I forwarded via U.S. First Class Mail a copy of the application and the Declaration to each inventor in order to obtain their signature on the Declaration. Five of the seven inventors have returned the signed documents. These signatures are included in the Declaration copy submitted with the accompanying Response to Notification of Missing Requirements under 35 USC 371.

4. Matthew Lawler did not respond to the initial mailing of the documents. The above document package for Matthew Lawler was mailed to his last known address, which is:

Matthew Lawler  
13738 West Ironwood Circle  
Homerglen, Illinois 60441

5. Theron Kotze did not respond to the initial mailing of the documents. The above document package for Theron Kotze was mailed to his last known address, which is:

Theron Kotze  
1510 West Byron, Apt. 1  
Chicago, Illinois, 60613

6. I have attempted to reach each of Matthew Lawler and Theron Kotze at phone numbers identified for these inventors at their last known addresses. I have attempted to locate new phone numbers for each of these inventors using Directory Information and via the internet on websites such as [www.whitepages.com](http://www.whitepages.com). I have not been able to locate any new phone number or to reach either inventor by phone.

7. I have attempted to locate each of Matthew Lawler and Theron Kotze by contacting the other five inventors. The other inventors do not know the current whereabouts of Matthew Lawler or Theron Kotze.

8. Neither Matthew Lawler nor Theron Kotze is still employed by any Newell Rubbermaid division, according to corporate records. Also, no forwarding address is provided in corporate records for either of these inventors.

9. I have further attempted to locate new mailing addresses for Matthew Lawler and for Theron Kotze using the internet. I have not been able to locate a new or forwarding address for either inventor using search services such as [www.whitepages.com](http://www.whitepages.com).

10. Another copy of the application and Declaration were forwarded to Matthew Lawler and to Theron Kotze at their respective last known addresses, which are identified above in Paragraphs 4 and 5, via Federal Express (FED EX) courier service. These packages were forward via FED EX more than 45 days ago. The exact date can no longer be determined because our FED EX electronic records are deleted after 45 days.

11. These FED EX packages were not signed for by either of Matthew Lawler or Theron Kotze and no signed Declaration has been returned by either inventor.

12. Yet another copy of the application and Declaration were forwarded to Matthew Lawler and to Theron Kotze at their respective last known addresses, which are identified above in Paragraphs 4 and 5, via Federal Express (FED EX) courier service. These packages were forward via FED EX on Monday, November 26, 2007 to each address. A copy of the electronic FED EX tracking document for each inventor is attached to this paper as Exhibit A (Lawler) and Exhibit B (Kotze).

13. The November 26, 2007 FED EX packages were not signed for by either of Matthew Lawler or Theron Kotze and no signed Declaration has been returned by either inventor.

14. The November 26, 2007 FED EX package to Matthew Lawler was returned in its entirety to me by an unknown person living at that address. A note from that person accompanied the returned package stating that Mr. Lawler no longer lived at that address. No other useful information was provided with the returned package.

15. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001 and that such willful false statements may jeopardize the validity of the above-referenced patent application and any patent issued therefrom.

Date:

December 3, 2007

By:

Karen Kaplan

Karen Kaplan  
Rubbermaid Foodservice Products

## Tracking summary

Page 1 of 2

EXHIBIT A[Close Window](#)Track Shipments/FedEx Kinko's Orders  
Detailed Results[Print](#)

|                           |                           |              |                |
|---------------------------|---------------------------|--------------|----------------|
| Tracking number           | 798316396732              | Destination  | HOMER GLEN, IL |
| Signed for by             | Signature release on file | Residence    |                |
| Ship date                 | Nov 26, 2007              | Service type | Priority Pak   |
| Delivery date             | Nov 27, 2007 8:41 AM      | Weight       | 1.0 lbs.       |
| Status                    | Delivered                 |              |                |
| Signature image available | No                        |              |                |

| Date/Time            | Activity                          | Location         | Details   |
|----------------------|-----------------------------------|------------------|---|
| Nov 27, 2007 8:41 AM | Delivered                         | HOMER GLEN, IL   | Left at front door. Package delivered to recipient address - release authorized |
| 7:36 AM              | On FedEx vehicle for delivery     | HILLSIDE, IL     |   |
| 7:01 AM              | At local FedEx facility           | HILLSIDE, IL     |   |
| 3:02 AM              | At dest sort facility             | CHICAGO, IL      |   |
| 3:05 AM              | Departed FedEx location           | INDIANAPOLIS, IN |   |
| 12:34 AM             | Arrived at FedEx location         | INDIANAPOLIS, IN |   |
| Nov 26, 2007 9:01 PM | Left origin                       | CONCORD, NC      |   |
| 6:14 PM              | Picked up                         | CONCORD, NC      |   |
| 4:30 PM              | Package data transmitted to FedEx |                  |   |

[E-mail results](#)[Track more shipments/orders](#)

Subscribe to tracking updates (optional)

Your Name:

Your E-mail Address:

E-mail address

Language

Exception updates

Delivery updates

English

English

English

English

Select format:  HTML  Text  Wireless

Add personal message:

Not available for Wireless or non-English characters.

Tracking summary

Page 1 of 2


EXHIBIT B
[Close Window](#)

Print

**Track Shipments/FedEx Kinko's Orders  
Detailed Results**

|                                  |                           |                     |              |
|----------------------------------|---------------------------|---------------------|--------------|
| <b>Tracking number</b>           | 791441367551              | <b>Destination</b>  | CHICAGO, IL  |
| <b>Signed for by</b>             | Signature release on file | <b>Residence</b>    |              |
| <b>Ship date</b>                 | Nov 26, 2007              | <b>Service type</b> | Priority Pak |
| <b>Delivery date</b>             | Nov 27, 2007 8:53 AM      | <b>Weight</b>       | 1.0 lbs.     |
| <b>Status</b>                    | Delivered                 |                     |              |
| <b>Signature image available</b> | No                        |                     |              |

| Date/Time    | Activity | Location                          | Details  |
|--------------|----------|-----------------------------------|--|
| Nov 27, 2007 | 8:53 AM  | Delivered                         | Left on porch. Package delivered to recipient address - release authorized |
|              | 7:43 AM  | On FedEx vehicle for delivery     | SKOKIE, IL   |
|              | 7:16 AM  | At local FedEx facility           | SKOKIE, IL   |
|              | 3:02 AM  | At dest sort facility             | CHICAGO, IL  |
|              | 3:05 AM  | Departed FedEx location           | INDIANAPOLIS, IN   |
|              | 12:34 AM | Arrived at FedEx location         | INDIANAPOLIS, IN   |
|              | 9:01 PM  | Left origin                       | CONCORD, NC  |
|              | 6:14 PM  | Picked up                         | CONCORD, NC  |
|              | 4:29 PM  | Package data transmitted to FedEx |  |

[E-mail results](#)[Track more shipments/orders](#)

Subscribe to tracking updates (optional)

Your Name:

Your E-mail Address:

| E-mail address | Language | Exception updates        | Delivery updates         |
|----------------|----------|--------------------------|--------------------------|
|                | English  | <input type="checkbox"/> | <input type="checkbox"/> |
|                | English  | <input type="checkbox"/> | <input type="checkbox"/> |
|                | English  | <input type="checkbox"/> | <input type="checkbox"/> |
|                | English  | <input type="checkbox"/> | <input type="checkbox"/> |

Select format:  HTML  Text  Wireless

Add personal message:

Not available for Wireless or  
non-English characters.